



ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

OUR REF: 213217US-2X
GROUP ART UNIT: 2829

Re: Inventor: Haruo SHINDO ET AL.
Serial No: 09/935,585
Filed: AUGUST 24, 2001
For: METHOD OF MEASURING ELECTRON
ENERGY DISTRIBUTION IN PLASMA
REGION AND APPARATUS FOR MEASURING
THE SAME

SIR:


Attached hereto for filing are the following papers:

PROVISIONAL ELECTION OF SPECIES

Our check in the amount of \$ -0- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

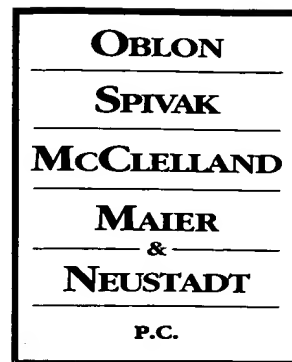
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


Gregory J. Maier
Attorney of Record
Registration No. 25,599
David A. Bilodeau
Registration No. 42,325



22850

/des



ATTORNEYS AT LAW

GREGORY J. MAIER
(703) 413-3000
GMAIER@OBLON.COM

DAVID A. BILODEAU
SENIOR ASSOCIATE
(703) 412-6444
DBILODEAU@OBLON.COM

#8 Election
2/25/03
amr

RECEIVED
FEB 19 2003
TECHNOLOGY CENTER

213217US-2X

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

Haruo SHINDO ET AL.

SERIAL NO: 09/935,585

FILED: AUGUST 24, 2001

:

: EXAMINER: PATEL, P.

:

: GROUP ART UNIT: 2829

FOR: METHOD OF MEASURING ELECTRON
ENERGY DISTRIBUTION IN PLASMA
REGION AND APPARATUS FOR
MEASURING THE SAME

PROVISIONAL ELECTION OF SPECIES

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Election of Species requirement dated January 15, 2003, Applicants provisionally elect Species 2 of Figure 4 and identify Claim 4 as readable on the provisionally elected species.

Applicants respectfully traverse the election requirement for several reasons.

First, MPEP § 806.04(f) requires:

MPEP § 806.04(f)

Claims to be restricted to different species must be mutually exclusive. ..

The outstanding Official Action fails to address in any way whether the pending claims recite mutually exclusive characteristics and this failure provides a further basis for traversing the election requirement.

Finally, MPEP § 803 states:



RECEIVED
FEB 19 2003
TECHNOLOGY CENTER 2800

MPEP § 803

... If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

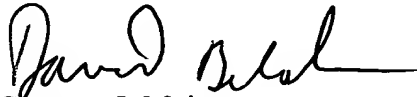
The claims of the present invention would appear to be part of an overlapping search area.) m7.

Accordingly, Applicants also respectfully traverse the outstanding Election requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Accordingly, an action on all pending claims is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Attorney of Record
Registration No. 25,599
David A. Bilodeau
Registration No. 42,325



22850

(703) 413-3000
Fax #: (703) 413-2220
GJM/DAB/des